

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Gregory Daniels,)	C/A No.: 4:18-cv-03322-RMG-KDW
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Investigator Timothy Wade Compton,)	
Solicitor John Jupertinger, and Detective)	
George Clark,)	
)	
Defendants.)	

Plaintiff, a state prisoner at Lee Correctional Institution, filed a *pro se* complaint pursuant to 42 U.S.C. § 1983 regarding alleged perjury during his state court proceedings. *See* ECF No. 1. On December 13, 2018, the assigned magistrate judge issued an order directing Plaintiff to take the necessary steps to bring his case into proper form for evaluation and potential service of process. ECF No. 8. That order warned Plaintiff that his failure to comply within twenty-one days (plus three days for mail time) would subject his case to dismissal for failure to prosecute and for failure to comply with an order of the court under Rule 41 of the Federal Rules of Civil Procedure. *Id.*

The court has not received a response from Plaintiff and the time for compliance has passed. The order was not returned as undeliverable and the mail in which the order was sent to Plaintiff's provided address has not been returned to the court. Thus, it is presumed that Plaintiff received the order, but has failed to comply with it within the time permitted.


Plaintiff's lack of response to the order indicates an intent to not prosecute this case, and subjects it to dismissal. *See* Fed. R. Civ. P. 41(b) (district courts may dismiss an action if a Plaintiff fails to comply with an order of the court); *see also Ballard v. Carlson*, 882 F.2d 93, 95

(4th Cir. 1989) (dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982) (court may dismiss *sua sponte*).

Accordingly, this case is dismissed without prejudice. The Clerk of Court shall close the file.

IT IS SO ORDERED.

January 14, 2019
Charleston, South Carolina



Richard Mark Gergel
United States District Court Judge

The parties are directed to the important notice on the following page.

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within the time period set forth under Rules 3 and 4 of the Federal Rules of Appellate Procedure.